

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JOSEPH MATTHEW KETSENBURG,

Plaintiff,

v.

CHEXSYSTEMS, INCORPORATED,

Defendant.

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No. 4:21-CV-220 RLW

**MEMORANDUM AND ORDER**

This matter is before the Court on self-represented Plaintiff Joseph Matthew Ketsenburg's Motion Requesting Leave to Amend Complaint (ECF No. 20). Attached to the Motion is Plaintiff's proposed First Amended Complaint.

As an initial matter, Plaintiff does not need leave of Court to amend his Complaint because he has not previously amended it, and the Defendant has not yet served a responsive pleading. See Rule 15(a)(1)(B), Federal Rules of Civil Procedure.

However, the Court will not permit the filing of Plaintiff's proposed First Amended Complaint. As the Court stated in the Memorandum and Order of May 10, 2021 (ECF No. 19),

Plaintiff is warned that the filing of an amended complaint replaces the original complaint entirely, so it must include all claims Plaintiff wishes to bring. See, e.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation, 396 F.3d 922, 928 (8th Cir. 2005). Plaintiff's amended complaint must comply with Rules 8 and 10 of the Federal Rules of Civil Procedure. Rule 8 requires plaintiff to set forth a short and plain statement of the claim showing entitlement to relief, and it also requires that each averment be simple, concise and direct. Rule 10 requires plaintiff to state his claims in separately numbered paragraphs, each limited as far as practicable to a single set of circumstances.

(Mem. and Order, ECF No. 19 at 2.)

Plaintiff's proposed First Amended Complaint violates the foregoing statement and this Court's requirements because it incorporates by reference facts from his original Complaint. This type of incorporation is impermissible because it fails to recognize the rule that an amended complaint completely replaces the original complaint. It also tends to cause confusion in the record and for other parties, as incorporation would require multiple documents to be consulted in determining the content of Plaintiff's complaint and formulating a response thereto.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's Motion Requesting Leave to Amend Complaint (ECF No. 20) is **DENIED** without prejudice.

**IT IS FURTHER ORDERED** that Plaintiff shall file an Amended Complaint that complies with the requirements of the Court's Memorandum and Order of May 10, 2021 (ECF No. 19), by **May 19, 2021**. If Plaintiff fails to meet this deadline, the Court will treat the original Complaint as the operative complaint.

**IT IS FURTHER ORDERED** that Defendant ChexSystems, Incorporated, shall file its response to Plaintiff's Amended Complaint or, if an Amended Complaint is not filed, a response to the pending operative Complaint, by **June 9, 2021**.

A handwritten signature in black ink that reads "Ronnie L. White". The signature is written in a cursive, flowing style.

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**RONNIE L. WHITE**  
**UNITED STATES DISTRICT JUDGE**

Dated this 12th day of May, 2021.